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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:

Pierre-Marc Allemand

Application No.:

10/606,726

Filing Date:

June 26, 2003

Group Art Unit:

2879

Examiner:

Roy, Sikha

Title:

Devices Including, Methods Using, and
Compositions of Reflowable Getters

Attorney Docket No.:

2002P20105US01

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

A Restriction Requirement for the above case was mailed on March 25, 2005 with a one month period to respond. According to the Examiner, Group I (i.e., claims 1-12) is directed to a method of producing an optoelectronic device; group II (i.e., claims 13-17) is directed to an optoelectronic device; group III (i.e., claims 18-21) is directed to a cap

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including a getter; and group IV (i.e., claims 22-24) is directed to a getter. The Examiner asserts that each of these groups are distinct inventions.

In response to the Restriction Requirement, the Applicant asserts that the search and examination of all of the claims can be made without serious burden to the Examiner, therefore, the Examiner should examine all the claims on the merits even if the application includes claims to four independent or distinct inventions. *See MPEP § 803.* Specifically, the Applicant notes that Group II and Group III have both been classified by the Examiner as belonging to the same class and subclass, namely, class 313 and subclass 512. Thus, regardless of the correctness of the Examiner's position, the Applicant notes that there is no search burden because the search of Group II would be identical to the search of Group III and vice versa. Because no burden of search is present in searching a single subclass (in contrast to the requirement for a "serious burden" as specified in MPEP 803), the reasons for restriction between these two Groups are insufficient and the restriction may be properly withdrawn.

In the event that the instant Restriction Requirement is maintained despite the above argument, the Applicants provisionally elect Group IV (i.e., claims 22-24) with traverse for the reasons presented above, and respectfully request that upon the finding of allowability of Group IV, the claims of Group I be rejoined as set forth at MPEP 821.04.

The Applicants expressly reserve the right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority of this application.

Applicants respectfully submit that the pending claims are in condition for allowance and seek early allowance thereof. If for some reason the Examiner is unable to allow the claims in the next Office Action and believes that an interview would be helpful, it is requested that the Examiner contact the undersigned.

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Date: April 12, 2005

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Respectfully requested,

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